

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

1 Harold D. Harden,

2 Plaintiff

3 v.

4 City Marshals, et al.,

5 Defendants

6 Case No. 2:23-cv-01324-CDS-MDC

7 Order Dismissing and
8 Closing Case

9 [ECF Nos. 1, 5, 6]

10 Plaintiff Harold Harden brings this civil rights action under 42 U.S.C. § 1983 to redress
 11 constitutional violations that he claims he suffered while incarcerated at Clark County Detention
 12 Center. ECF No. 1-1. On January 29, 2024, I ordered Harden to update his address by February 28,
 13 2024. ECF No. 9. That deadline expired without an updated address from Harden, and his mail
 14 from the court is being returned as undeliverable. *See* ECF Nos. 11, 12.

15 **I. Discussion**

16 District courts have the inherent power to control their dockets and “[i]n the exercise of
 17 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.

18 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an
 19 action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*,
 20 856 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule
 21 requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d
 22 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether
 23 to dismiss an action on one of these grounds, the court must consider: (1) the public’s interest in
 24 expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of
 25 prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and
 26 (5) the availability of less drastic alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d
 27 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

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1 The first two factors, the public's interest in expeditiously resolving this litigation and
 2 the court's interest in managing its docket, weigh in favor of dismissal of Harden's claims. The
 3 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
 4 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
 5 ordered by the court or prosecuting an action. *See Anderson v. Air West, Inc.*, 542 F.2d 522, 524 (9th
 6 Cir. 1976). The fourth factor—the public policy favoring disposition of cases on their merits—is
 7 greatly outweighed by the factors favoring dismissal.

8 The fifth factor requires me to consider whether less drastic alternatives can be used to
 9 correct the party's failure that brought about the Court's need to consider dismissal. *See Yourish v.*
 10 *California Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
 11 alternatives *before* the party has disobeyed a court order does not satisfy this factor); *accord*
 12 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive force
 13 of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives prior to
 14 disobedience of the court’s order as satisfying this element[,]” i.e., like the “initial granting of leave
 15 to amend coupled with the warning of dismissal for failure to comply[,]” have been “eroded” by
 16 *Yourish*). Courts “need not exhaust every sanction short of dismissal before finally dismissing a
 17 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779 F.2d 1421,
 18 1424 (9th Cir. 1986). Because this action cannot realistically proceed without the ability for the
 19 court and the defendants to send Harden case-related documents, filings, and orders, the only
 20 alternative is to enter a second order setting another deadline. But without an updated address,
 21 the likelihood that the second order would even reach Harden is low, so issuing a second order
 22 will only delay the inevitable and further squander the court’s finite resources. Setting another
 23 deadline is not a meaningful alternative given these circumstances. So the fifth factor favors
 24 dismissal.

25 **II. Conclusion**

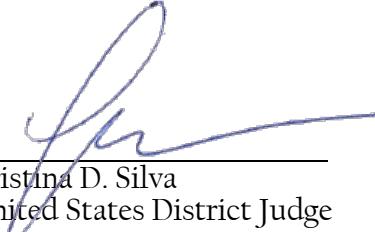
26 Having thoroughly considered these dismissal factors, I find that they weigh in favor of
 27 dismissal. It is therefore ordered that this action is dismissed without prejudice based on Harold
 28 Harden's failure to file an updated address in compliance with this Court's January 29, 2024,

1 order. The Clerk of Court is directed to enter judgment accordingly and close this case. No other
2 documents may be filed in this now-closed case. If Harold Harden wishes to pursue his claims, he
3 must file a complaint in a new case and provide the court with his current address.

4 It is further ordered that Harold Harden's motion to appoint counsel [ECF No. 6] and his
5 applications to proceed *in forma pauperis* [ECF Nos. 1, 5] are denied as moot.

6 Dated: March 13, 2024

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Cristina D. Silva
United States District Judge